

ADM-13.08, "Drug and Alcohol Testing of Comm.....,March 1, 2008"

SCDC POLICY/PROCEDURE

Change 1 to ADM-13.08: 13

NUMBER: ADM-13.08

TITLE: DRUG AND ALCOHOL TESTING OF COMMERCIAL VEHICLE DRIVERS

ISSUE DATE: March 1, 2008

RESPONSIBLE AUTHORITY: DIVISION DIRECTOR OF PROGRAMS AND SERVICES

OPERATIONS MANUAL: ADMINISTRATION

SUPERSEDES: ADM-13.08 (April 1, 2004)

RELEVANT SCDC FORMS/SUPPLIES: 19-50

ACA/CAC STANDARDS: 4-ACRS-7C-02, 4-ACRS-7E-07, 4-4063, 4-4071

STATE/FEDERAL STATUTES: Federal Regulation 49 CFR Parts 40 and 382; Article 5, South Carolina Transportation Regulation 43-80

NOTE: THE LANGUAGE USED IN THIS POLICY/PROCEDURE IS NOT INTENDED TO CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART, WITH OR WITHOUT NOTICE.

PURPOSE: To provide information and guidance to employees regarding the Agency's intent to comply with Federal Regulation 49 CFR Parts 40 and 382 and Article 5 of the South Carolina Transportation Regulation 43-80 which require pre-employment, random, post accident, return-to-duty, follow-up, and reasonable suspicion drug and/or alcohol testing of individuals occupying or applying for a safety sensitive job assignment.

POLICY STATEMENT: In order to prevent accidents and injuries resulting from the misuse of alcohol or controlled substances, the Agency will establish and implement a drug and alcohol testing program for all commercial vehicle drivers employed by the South Carolina Department of Corrections (SCDC). All drug and alcohol testing programs will comply with applicable American Correctional Association Standards and state and federal statutes and regulations.

SPECIFIC PROCEDURES:

1.PROHIBITED ACTIVITY/RULES: The following rules will apply to all employees, to include probationary, temporary, and temporary grant, who operate a commercial motor vehicle or an individual performing a safety sensitive function as defined in this policy/procedure. This includes, but is not limited to, full-time regularly employed drivers, casual, intermittent or occasional drivers. Failure to abide by these rules can result in corrective action in accordance with SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action."

1.1 No employee will illegally possess, ingest, or be under the influence of any controlled substance. (4-ACRS-7C-02, 4-4063)

1.2 No employee should report for or remain on duty which requires the performance of safety-sensitive functions when s/he uses any controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the individual that the substance will not adversely affect the employee's ability to safely operate a commercial motor vehicle. Any supervisor having actual knowledge that an employee has used a controlled substance shall not permit the employee to perform or continue to perform a safety-sensitive function. The supervisor may require the employee to inform him/her of any therapeutic drug use.

1.2.1 Employees will notify their immediate supervisor when required to use prescriptive medicine which they have been informed has the potential to impair job performance. The employee will advise the supervisor of the known side effects of such medication, and the prescribed period of use.

1.2.2 An employee may be temporarily reassigned to other duties or may be placed on leave (as coordinated by Division of Human Resources personnel) while on prescribed medication, if no other duty is available. If the prescription is required as a result of workplace injury, procedures will be followed for transitional duty as outlined in Agency Policy/Procedure ADM-16.15, "Workers Compensation."

1.3 No employee will buy or sell, or solicit to buy or sell, transport, or possess illegal drugs or alcohol while on duty and/or conducting SCDC business on or off SCDC premises.

1.4 No employee will use, possess, or be under the influence of alcohol (having an alcohol concentration of 0.04 or greater) at any time while on duty and/or while conducting SCDC business on or off SCDC premises (including medications containing alcohol except where medically valid). Any supervisor having actual knowledge that an employee has an alcohol concentration of 0.04 or greater shall not permit the employee to perform or continue to perform safety-sensitive functions.

1.5 No employee will perform a safety-sensitive function within four (4) hours of ingesting alcohol including, but not limited to, driving a SCDC vehicle. Any supervisor having actual knowledge that an employee has used alcohol within four (4) hours shall not permit an employee to perform or continue to perform safety-sensitive functions.

1.6 No employee will test positive for illegal drugs. No employee will test positive for alcohol pursuant to the requirements of Federal Regulation 49 CFR Parts 40 and 382.

1.7 No employee shall refuse to submit to a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, or a follow-up alcohol or controlled substances test required under the Department of Transportation (DOT) Agency Regulations. No supervisor shall permit an employee who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

1.8 No employee will refuse or fail to communicate with SCDC and/or the Medical Review Officer while awaiting the results of a drug test.

1.9 No employee will violate applicable federal, state, and/or local laws governing the use of drugs and/or alcohol. No employee shall report for duty, remain on duty, or perform a safety-sensitive function if s/he tests positive or has adulterated or substituted a test specimen for controlled substances. Any supervisor having actual knowledge that an employee has tested positive or has adulterated or substituted a test specimen for controlled substances shall not permit the employee to perform or continue to perform safety-sensitive functions.

1.10 Any employee who violates the requirements of these DOT Agency Regulations shall be subject to penalty provisions of the Commercial Motor Vehicle Safety Act of 1986 (49 USC521[b]).

2. EMPLOYEE ASSISTANCE PROGRAM:

2.1 SCDC will utilize the Employee Assistance Program (EAP) to assist employees with personal problems that may affect their job responsibilities including, but not limited to, the treatment of alcohol and/or drug addiction.

2.2 If an employee or member of his/her immediate family desires the services of the Employee Assistance Program, s/he may contact SCDC's Employee Relations Branch. All requests for assistance will be strictly confidential. (4-ACRS-7E-07, 4-4071)

3. REQUIRED TESTING:

3.1 Drug and/or alcohol testing will be conducted under the following circumstances:

- Employment physical/applicant testing;
- Employee random testing;
- Reasonable suspicion (see definitions);
- Post accident testing;
- After a work related injury, if outside medical treatment is required. (See Agency Policy/Procedure ADM-16.15, "Workers Compensation" for more information.)
- Return to duty (alcohol only); and
- Follow-up testing (alcohol only).

SCDC will contract with an Consortium/Third Party Administrator (C/TPA) to conduct all drug and alcohol testing of employees and applicants covered under these procedures, except in the case of alcohol or drug testing after a work related incident. Those tests will be done in accordance with Agency Policy ADM-16.15, "Workers Compensation." (NOTE: Commercial vehicle drivers will also be subject to all other drug and alcohol testing required by the Agency pursuant to specific procedures regarding the same.)

3.2 To ensure the integrity and accuracy of each test, all specimen collection, analysis, and laboratory procedures will be conducted in accordance with the DOT procedural protocols and the safeguards set forth in Part 40 of Title 49 of the Federal Code of Regulations.

3.3 Employees and applicants covered by these procedures will be permitted to give a urine specimen in private and without being observed by collection site personnel. However, this privacy consideration may be forfeited if there is reason to believe that an individual may alter or substitute a specimen. (4-ACRS-7C-02, 4-4063)

3.4 After the collector has completed his/her certification, employees and applicants will have an opportunity to list on the completed donor copy of the "Federal Drug Testing Custody and Control Form" any prescription and non-prescription medications which they are lawfully using at the time. A "positive" drug test may be declared "negative" by the Medical Review Officer if the employee can provide adequate justification that the drug was prescribed by a licensed physician.

3.5 A confirmed positive result of any drug test without a legitimate medical explanation will result in termination or, in the case of applicants, the withdrawal of an offer of employment. Terminated employees will not be afforded assistance from the Employee Assistance Program at SCDCs expense.

4. EMPLOYMENT PHYSICAL/APPLICANT TESTING: All individuals applying for a driver or a safety sensitive job assignment will be required to take a drug and alcohol test at the time of the employment physical. This process will be managed by the Division of Human Resources.

4.1 An applicant will be disqualified from further consideration for employment for the following reasons:

- Refusal to submit to a required drug/alcohol test; or
- A confirmed positive drug test indicating drug or alcohol use prohibited by these procedures and by the requirements of Federal Regulation 49 CFR Parts 40 and 382.

4.2 Any current SCDC employee who moves by way of promotion, demotion, reclassification, transfer, or reassignment from a position where testing was not required to a position considered safety sensitive, will be subject to drug and/or alcohol testing prior to the action taking place. The Division of Human Resources will be responsible for coordinating the testing of the employee in those cases.

5. EMPLOYEE RANDOM TESTING:

5.1 Employees covered under these procedures will be randomly tested in order to ensure a drug and alcohol free work environment. The SCDC will contract with the Consortium/Third Party Administrator (C/TPA) to conduct all random samples of employees and required tests. (NOTE: Under no circumstances will any drug and/or alcohol testing be conducted in such a manner as to harass, degrade, punish, or intimidate any employee or any potential applicant for a safety sensitive job assignment.) The Division

Director of Transportation or designee is authorized to receive communications and test results from the C/TPA and MRO, and to take immediate action to remove drivers from safety-sensitive duties and to make required decisions in the testing and evaluation process.

5.2 SCDC employees will be tested on an unannounced random basis. Every employee will have an equal chance of being selected each and every time that the process is implemented.

5.3 The C/TPA will randomly select the required number of employees during each calendar year to equal an annual rate not less than the minimum annual percentage rate as determined by the FHWA Administrator published in the Federal Register applicable starting January 1 of the calendar year following publication.

5.4 Random Selection Process:

5.4.1 Appropriate safeguards will be taken to ensure that the identity of an employee covered by these procedures cannot be determined prior to or at the time of selection. The C/TPA will forward the names of all employees selected to the Division Director of Transportation or his/her designee.

5.4.2 The Division Director of Transportation/designee will forward a copy of the "Testing Notification" form to the supervisor of each randomly selected employee. The supervisor will sign, date, and note the time of his/her receipt of the form in the space provided and will immediately locate the affected employee. Those employees selected will be required to report to the testing site immediately of their receipt of the form. A space is provided on the form for the employee to sign, date, and indicate the time of his/her receipt of the form. Employees must provide positive photographic identification using their SCDC ID card prior to entering the testing area. If the employee is on duty upon receipt of the notification, the supervisor will provide or ensure coverage as needed so that the employee can report to the testing site immediately.

5.4.3 Any employee whose results are positive to an alcohol test with a result of 0.02 or greater will be deemed to be unavailable for work and unable to drive and/or perform assigned job tasks. Consistent with SCDC employee corrective action procedures, such employees may also be subject to further corrective action up to and including termination.

5.4.4 Any employee whose results are positive to a drug test will be terminated. The SCDC maintains a zero tolerance position on illegal drugs. (4-ACRS-7C-02, 4-4063)

5.4.5 An employees unjustified failure to appear for testing or refusal to provide a specimen will be considered insubordination, will be the equivalent of testing positive, and will be grounds for corrective action up to and including termination.

5.4.6 Where the employee appears unable or unwilling to give a specimen at the time of the drug test, testing personnel will document the circumstances on the drug-test report form. The employee will be permitted no more than three (3) hours to give a sample on site. Reasonable amounts of water and/or other acceptable liquids may be given to an employee to encourage urination. Failure to submit a sample will be considered a refusal to submit to a drug test. The employee may be given an opportunity to speak with the

Medical Review Officer prior to a confirmed positive result. Should s/he fail to provide a legitimate medical explanation, it will be reported as a refusal to submit to a drug test.

5.4.7 In the event that an employee is unable to provide an adequate amount of breath for the initial or confirming alcohol test after several attempts, the employee may be required to submit to an evaluation by a licensed medical physician at his/her own expense to determine whether a valid medical condition exists. If it is determined that a valid medical condition exists, the employee may be found to be unavailable for work due to medical reasons. If it is determined that there is no valid medical condition, it will be noted by testing personnel and reported to SCDC as a failure to submit.

6. REASONABLE SUSPICION:

6.1 The SCDC will require an employee to submit to an alcohol and/or controlled substances testing when the Agency has reasonable suspicion to believe that the employee has violated the prohibitions of this policy/procedure concerning alcohol and/or the use of controlled substances during, preceding, or after the period of their work day. The SCDC's determination that reasonable suspicion exists which would require the employee to undergo an alcohol and/or controlled substances testing will be based on specific observations such as the appearance, behavior, speech, or body odor of the employee. The observations may include indications of the chronic and withdrawal affects of controlled substances. The required observations for alcohol and/or controlled substances reasonable suspicion testing will be made by a supervisor or other Agency employees who are trained in accordance with DOT Agency Regulations. If an alcohol test is not administered within two (2) hours following the determination, the supervisor will prepare and maintain on file a record stating the reason(s) the alcohol test was not promptly administered. A written record will be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor and/or Agency employee who made the observation within 24 hours of the observed behavior or before the test results are released, whichever is earlier. The Division of Transportation will be responsible for identifying those supervisors who will attend this training and for making arrangements for this training to be conducted pursuant to the requirements of Federal Regulation 49 CFR Parts 40 and 382.

6.2 Notification:

6.2.1 When an employee is notified of reasonable suspicion testing for drugs and/or alcohol, s/he must report to the test site immediately. Employees who fail to report may face corrective action up to and including termination.

6.2.2 The employee will be given the necessary documentation and driven to the test site by his/her supervisor or a designee. Because the employee is being tested for reasonable suspicion and may possibly be under the influence, the employee will not be allowed to operate a vehicle. The SCDC reserves the right to take whatever action necessary to prevent an employee from driving a vehicle to the test site for reasonable suspicion testing including, but not limited to, contacting law enforcement.

6.2.3 When an employee is transported to a test site under reasonable suspicion, it will be the responsibility of the employee to make arrangements for transportation home after the test is completed.

6.2.4 If an employee is selected for reasonable suspicion testing, s/he will be considered unavailable for work pending the outcome of the test.

6.2.5 If an employee tests positive for alcohol or illegal drugs, s/he will be subject to corrective action up to and including termination, in addition to any other penalties imposed by the DOT.

6.3 If an employee has any reasonable basis to believe that another employee is illegally using or in possession of alcohol or of prescription or controlled substances, s/he will report the facts and circumstances to his/her supervisor immediately.

7. POST-ACCIDENT TESTING:

7.1 An employee performing a safety sensitive function with respect to a vehicle operating on a public road in commerce must submit to a post-accident drug and alcohol test as soon as practicable under the following circumstances:

7.1.1 After an accident involving a fatality (loss of life);

7.1.2 Upon being issued a citation within eight (8) hours for a moving violation that resulted in an accident and in someone immediately receiving medical treatment away from the scene of the accident;

7.1.3 Upon being issued a citation for a moving traffic violation that resulted in an accident and in which one (1) or more vehicles incurred disabling damage requiring the vehicle to be towed from the scene of the accident;

7.1.4 If the law enforcement officer does not issue a citation within a specified time frame as indicated in section 7.1.2, above, the Agency should not attempt to conduct a post-accident testing, but should proceed with documenting the reason why the test was not performed; and/or

7.1.5 Any accident which resulted in damage to an SCDC vehicle or property. (NOTE: In addition to the circumstances which require testing specifically for employees who perform safety sensitive functions, all vehicle accidents, no matter how minor must be reported immediately to the Division Director or designee of the Division of Transportation.

7.2 An employee may be tested at the scene of an accident by a law enforcement officer. If a federal, state, or local law enforcement officer directs an employee to submit to a drug and/or alcohol test at the scene of an accident, it will be the responsibility of the employee to notify his/her supervisor or another appropriate SCDC official immediately thereafter and to provide the following information:

7.2.1 name and badge number of the officer;

7.2.2 jurisdiction (federal, state, county, etc.); and

7.2.3 telephone number of officer conducting test(s).

7.3 If an alcohol test is not administered within 2 hours and a drug test is not administered within 32 hours following an accident, the Agency will prepare and maintain on file a record stating the reasons the test was not promptly administered. If an alcohol test is not administered within 8 hours and a drug test is not administered within 32 hours following the accident, the Agency will cease attempts to administer an alcohol test and will prepare and maintain the same record.

7.4 In any case where an employee is seriously injured and cannot provide a specimen at the time of the accident, s/he must provide the necessary authorization to release information needed to determine the existence of drugs and/or alcohol in his/her system. An employee required to take a post-accident alcohol test will not use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

8. RETURN TO DUTY TESTING:

8.1 If an employee is allowed to return to a safety sensitive position following a verified positive alcohol result of 0.02 or greater, subsequent to a refusal to submit to a test, or after engaging in other alcohol related activity that violates the regulations, s/he must be evaluated by a Substance Abuse Professional (SAP) and pass a return to duty test prior to returning. The SCDC will contract with an outside provider for the evaluation.

8.2 Before the return to duty test is performed, the employee must be evaluated by a SAP to determine whether s/he has followed the recommendations for action as outlined by the SAP including, but not limited to, participation in any rehabilitation program.

8.3 The return to duty test and SAP evaluation ensure that an employee is:

- free of alcohol and/or any prohibited drugs; and
- able to return without undue concern about continued substance abuse.

8.4 The employee must have a verified negative alcohol test result of less than 0.02 before any attempt is made to return him/her to a safety sensitive position.

9. FOLLOW-UP TESTING:

9.1 Follow-up alcohol testing is separate from, and in addition to, the regulated random testing program. Once allowed to return to duty, the employee will be subject to unannounced follow-up alcohol testing for at least 12, but no more than 60, months. The frequency and duration of the follow-up testing will be recommended by the SAP. However, a minimum of six (6) tests must be performed during the first 12 months after the employee has returned to duty.

9.2 Employees subject to follow-up alcohol testing will remain in the random pool even if it results in duplicate testing.

10. EMPLOYEE COMMUNICATIONS:

10.1 Any employee who has been suspended pending the result of a drug and/or alcohol test must provide the SCDC with a telephone number and address where s/he can be reached and must remain in contact with the Medical Review Officer at all times.

10.2 Failure to stay in contact with the Medical Review Officer may be considered insubordinate behavior and subject to corrective action up to and including termination.

10.3 An employee can be temporarily removed from the performance of safety sensitive functions based on a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substantiated test report from a laboratory before the "MRO" has completed verification of the test results. This is known as "Stand-down."

11. DRUG AND ALCOHOL EDUCATION PROGRAM:

11.1 SCDC will utilize ~~the services of the Employee Assistance Program (EAP)~~ a Drug and Alcohol Abuse Training Guide for CDL Drivers to provide annual training and/or educational materials to all employees whose positions are covered by these procedures. Recurrent training for supervisory personnel is not required. The content of such training will include, but not be limited to: (4-ACRS-7E-07, 4-4071)

- The effects of drugs and alcohol on an individuals health, work, and personal life;
- The signs and symptoms of a drug and/or alcohol problem(s);
- The physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances;
- The available methods of intervention when a problem does exist.

11.2 Employees engaging in any conduct that is prohibited by these procedures will be provided information concerning the resources available to evaluate and resolve a drug and/or alcohol problem including, but not limited to, the names, addresses, and telephone numbers for community substance abuse professionals, counselors, and treatment programs, and for the Agency's Employee Assistance Program. Employees who admit to alcohol misuse or controlled substances use do not self-identify in order to avoid testing. Admission of alcohol misuse or controlled substances use is required before performing a safety sensitive function. The driver does not perform a safety sensitive function until the Agency is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements.

11.3 All drivers and all persons occupying a safety sensitive job assignment will be required to read these procedures and will be afforded the opportunity to ask their supervisor any questions that they may have regarding the same. Supervisors will ensure that all new employees are provided this information within 30 days of their initial assignment to the job. Each employees supervisor will ensure that the employee signs and dates SCDC Form 19-50, "Employee Acknowledgment of Drug Testing Policy/Procedure." The employees supervisor will be responsible for filing and maintaining copies of this form in each employees

record.

11.4 Switching, tampering with or adulterating any specimen or sample collected under the Agency's policy/procedure for the purpose of testing for drugs or alcohol, or attempting to do so, or assisting another in an attempt to do so, is prohibited. Any such effort may result in corrective action up to and including termination.

12. REPORTS:

12.1 The contracted MRO will be responsible for documenting, distributing, and maintaining all test results and for compiling information and reports for distribution to authorities as identified in and required by Federal Regulation 49 CFR Parts 40 and 382.

12.2 Any employee required to submit to drug and/or alcohol testing is entitled, upon written request to the Division Director of Transportation, to obtain copies of any records pertaining to his/her use of alcohol or drugs, including any records pertaining to his/her alcohol or drug test results. Any other release of information pertaining to a specific employees drug and/or alcohol test results, driving records, etc., will be released by the Division Director of Transportation in strict compliance with the requirements of Federal Regulation 49 Parts 40 and CFR 382.

13. DEFINITIONS:

Actual knowledge refers to knowledge by the supervisor that an employee has used alcohol or controlled substances based on the supervisor's direct observation of the employee, information provided by the employee's previous employer(s), a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use. Direct observation as used in this definition refers to observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing.

Alcohol refers to the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol Concentration or content refers to the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under these procedures.

Alcohol Use refers to the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

Commerce refers to any trade, traffic or transportation within the jurisdiction of the United States.

Commercial Motor Vehicles refers to a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- a. Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or b. Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- c. Is designed to transport 16 or more passengers, including the driver; or
- d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations.

Confirmation Drug Test refers to a second analytical procedure performed on a urine specimen to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry [GC/MS] is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

Confirmation Test for Alcohol Testing refers to a second test (following a screening test with a result of 0.02 or greater) that provides quantitative data of alcohol concentration.

Consortium/Third Party Administrator (C/TPA) refers to a service agency that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members (e.g., having a combined random testing pool). For purpose of this policy/procedure, C/TPAs are not employers.

Controlled Substances refers to, but is not limited to, lower cut-off levels for screening and confirmatory tests for amphetamines and cocaine, marijuana metabolites, cocaine metabolites, ~~amphetamines~~, screening and confirmatory testing for MDMA (Ecstasy), MDA and MDEA added to the amphetamines class of drugs; opiate metabolites, 6-AM (heroin metabolite) is added to the opiates screening analysis, and phencyclidine (PCP). (Amended by Change 1, dated September 27, 2010.)

Designated Employer Representative (DER) refers to an employee identified by the Agency able to receive communications and test results from service agents and who is authorized to take immediate action from service agents, remove employees from safety-sensitive duties, and to make required decisions in the testing and evaluation process. Service Agents cannot serve as DERS.

Disabling Damage refers to damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Inclusions refers damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

Exclusions refers to

- damage which can be remedied temporarily at the scene of the accident without special tools or parts or;
- tire disablement without other damage even if no spare tire is available; or
- headlight or taillight damage; and
- damage to turn signals, horn, or windshield wipers which make them inoperative.

Driver refers to any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers; and independent, owner-operated contractors. When the term driver is used for the purpose of pre-employment/pre-duty testing, it includes a person applying to drive a commercial motor vehicle. A "driver" is referred to as a safety sensitive job assignment. (See definition of safety sensitive function below.)

Employee, when used throughout these procedures, refers to a driver of a commercial motor vehicle or to an individual performing a safety sensitive function.

Employer means a person or entity employing one or more employees(including an employee who is self employed), that is subject to DOT Agency regulations requiring compliance with this part. The term, as used in this part, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this part and any applicable DOT agency regulations. Service agents are not employers for the purposes of this part.

Licensed Medical Practitioner refers to a person who is licensed, certified, and/or registered in accordance with applicable Federal, State, local, or foreign laws and regulations to prescribe controlled substances and other drugs.

Medical Review Officer (MRO) and/or Substance Abuse Professional (SAP) refers to a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor who has knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Performing a Safety-Sensitive Function refers to an employee who is performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

Reasonable Suspicion refers to the employer's determination that reasonable suspicion exists which would require the employee to undergo an alcohol and/or controlled substances testing based on specific observations concerning the appearance, behavior, speech, or body odor of the employee. The observations may include indications of the chronic and withdrawals affects of controlled substances. The required observations for alcohol and/or controlled substances reasonable suspicion testing will be made by a supervisor or company official who is trained in accordance with DOT agency regulations.

Refusal to Submit refers to an alcohol or controlled substances test, which means that an employee:

- a. Fails to ~~show up~~ appear for any test (except a pre-employment) within a reasonable time after being directed to do so by the employer or to remain at the testing site until the testing process is complete; or
- b. Fails to provide a urine specimen for any drug test required by DOT Agency Regulations; or
- c. Fails to permit the observation or monitoring of the employee's provision of a specimen in the case of a directly observed or monitored collection in a drug test; or
- d. Fails to provide a sufficient amount of urine when directed unless it has been determined through a required medical evaluation that there was an adequate medical explanation for the failure; or
- e. Fails or declines to take a second test the employer or collector has directed following a negative dilute result; or
- f. Fails to undergo an additional medical examination as directed by the MRO as part of the verification process, or as directed by the DER concerning the evaluation as part of the "shy bladder" procedures; or
- g. Fails to cooperate (e.g., leaves the test site before the collection process is completed, refuses to empty pockets or behaves in a confrontational way that disrupts the collection or testing process.)

SCDC will not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

Safety Sensitive Function refers to the time an employee begins to work or is required to be in readiness to work until the time s/he is relieved from work and all responsibility for performing work.

Screening Test or Initial Test (in alcohol testing) refers to an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in a breath or saliva specimen. For controlled substance testing, it refers to immunoassay screen to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs.

Stand-down means the practice of temporarily removing an employee from the performance of safety sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

SIGNATURE ON FILE

s/Jon E. Ozmint, Director

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